

ORAL ARGUMENT NOT YET SCHEDULED

**United States Court of Appeals
for the Eighth Circuit**

NATIONAL STONE, SAND AND GRAVEL
ASSOCIATION, ET AL.,
Petitioners,

v.

MINE SAFETY & HEALTH
ADMINISTRATION, ET AL.,
Respondents.

No. 24-2661

NSSGA PETITIONERS' STATUS REPORT

NSSGA Petitioners appreciate MSHA's willingness to undertake rulemaking that may reduce the issues presented in this case. And they note the Court has stayed the rule that is under review. But it is now late November 2025, and MSHA has been considering for many months what course of action it might take. While NSSGA Petitioners are optimistic that a rulemaking might be able to fully resolve the matters in dispute, they are also left in substantial uncertainty. MSHA does not say what its rulemaking will cover, nor how long its rulemaking might take.

Because MSHA's rulemaking may reduce the dispute, or potentially even eliminate it (depending on the outcome), NSSGA Petitioners do not suggest the Court end its abeyance and resume litigation. But they do not favor an indefinite abeyance with no timeline for the anticipated rulemaking. Other agencies are able

to provide such information. *E.g., Olin Corp. v. EPA, No. 25-1014*, Doc. 5557418 (8th Cir. Sept. 12, 2025). Accordingly, NSSGA Petitioners ask the Court to hold the case in abeyance for another 30 days, with a status report due from MSHA at that time, for MSHA to reveal its expected schedule for the rulemaking.

November 26, 2025

Respectfully submitted,

/s/ Keith Bradley

KEITH BRADLEY

PETER S. GOULD

KAYLA MARIE MENDEZ

717 17th Street, Suite 1825

Denver, CO 80202

T: (303) 830-1776

F: (303) 894-9239

keith.bradley@squirepb.com

peter.gould@squirepb.com

kayla.mendez@squirepb.com

SQUIRE PATTON BOGGS (US) LLP

*Counsel for National Stone, Sand &
Gravel Association, et al.*